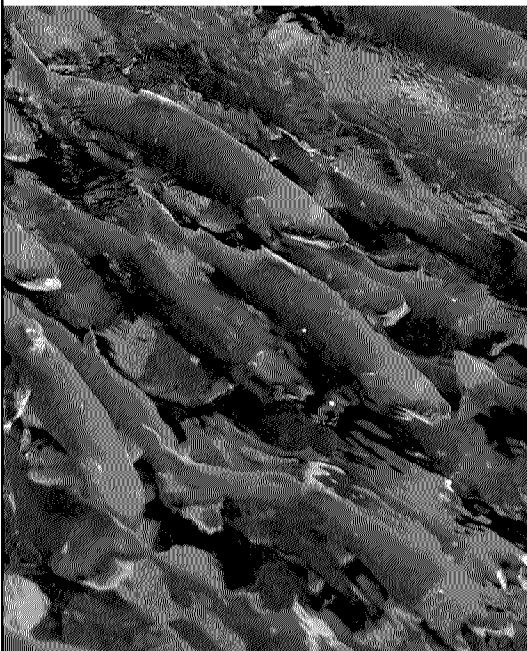




Oregon CZARA

Tillamook Bay Watershed Council February 25, 2014



EPA Region 10, OWW and
Oregon DEQ



WHAT WE WILL DISCUSS

- Brief background on CZARA & Oregon's Coastal Nonpoint Program
- Oregon Settlement Agreement and Program Decisions
- Remaining Issues to Address
- The Path Forward

Coastal Zone Act Reauthorization Amendments (CZARA)



- Enacted Nov. 5, 1990; Jointly administered by EPA & NOAA; EPA published (g) guidance in Jan. 1993
- CZARA = CZMA Section 6217, which requires states participating in NOAA's CZMP to develop coastal nonpoint pollution control programs (CNPCPs)
- 34 states and territories currently participate in the National CZM Program

CZARA's Purpose & Mandate



- States must “prepare and submit” to NOAA/EPA CNPCPs that “shall be closely coordinated with State & local WQ plans & programs developed pursuant to sections 208, 303, 319, & 320” of CWA.
- 56 Management Measures across these categories: **Agriculture, Urban, Forestry, Marinas, Hydromodification, Wetlands** – Oregon had @ 40 conditions to meet under these Management Measures – most have received interim approval
- *Each state shall also contain... additional management measures... necessary to achieve and maintain applicable water quality standards... and protect designated uses.*



CZARA Timeline in Oregon

- 1995 – Oregon submitted its Coastal Non-point Source Control Program to NOAA/EPA
- 1998 – NOAA/EPA issued conditional approval findings; identified gaps
- Through 2008 NOAA/EPA and State continued to work to address the remaining conditions
- 2009 – Northwest Environmental Advocates files suit

Oregon Lawsuit Overview



- NWEA sued NOAA and EPA for failing to fully approve (without conditions) or disapprove OR's CNPCP. The parties settled September 2010. NWEA's primary concern was impacts from timber harvest and forest roads
- NOAA/EPA based settlement agreement and timeline on the State's commitment for addressing the remaining conditions
- Agreement established timeline with milestones to approve or disapprove OR's CNPCP by 2014



Oregon SA: Critical Deadlines

- By Dec. 31, 2012, NOAA-EPA provide ODEQ an initial assessment of the viability of its TMDL strategy for achieving WQS and addressing OR's remaining forestry conditions.
- By Nov. 15, 2013* NOAA-EPA must publish a decision for public notice & comment on our intent to approve or disapprove OR's CNPCP.
- Public Comment Period closes March 20, 2014
- EPA and NOAA to issue a final decision on May 15, 2014



Oregon's Unmet Conditions

- New Development — “reduce average annual sediment loads by 80%”—post-construction
- On-site Sewage Disposal Systems — “Inspect OSDS at a frequency adequate to ascertain whether OSDS are failing”
- Additional MMs for Forestry
 - Increase protections for medium, small & non-fish-bearing “Type N” streams
 - Increase protections for landslide prone areas
 - Address impacts from forestry roads, esp. legacy roads
 - Ensure adequate stream buffers for application of certain chemicals, esp. aerial pesticide spraying on steep slopes



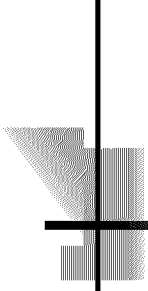
NOAA/EPA's Pesticide Issue

- In 1998, NOAA/EPA placed a condition on Oregon's CNPCP that they needed to provide adequate buffers for aerial application of herbicides for non-fish-bearing streams
- Oregon follows on State's Pesticide Control Law, BMPs set by Oregon Department of Agriculture and EPA labeling requirements under FIFRA
- NMFS (part of NOAA) has issued several BiOps saying EPA needs to change pesticide labels to provide greater protection of salmon.
- EPA has not yet taken action, but is negotiating with NMFS on suitable solution

Agriculture Concerns

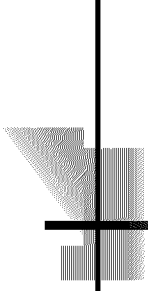


- NOAA/EPA have received comments regarding OR's programs for meeting the Ag MMs. Issues include:
 - Enforcement is limited and largely complaint driven
 - AWQMA plan rules don't require specific
 - AWQMA plans focus on impaired areas when the focus should be on both protection and restoration
 - No clear, formalized process to track implementation and effectiveness
 - AWQMA plans do not address legacy issues
- NMFS recent Coho listings and draft recovery plans identified that insufficient riparian buffers around agricultural activities contribute to salmon decline



State Actions taken to address the Remaining Issues


- On-site Sewage Disposal Systems
 - Partnered with Oregon Realtors Association to develop voluntary inspection program
 - Revised Sellers Disclosure Statement
 - Standardized inspection report form
 - Outreach and education
 - Tracking and evaluation
 - Annual inspection reports by certified inspectors
 - Survey of homebuyers



State Actions taken to address the Remaining Issues

- New Development
 - Urban guidance for managing post-construction runoff
 - Outreach and education
 - Tracking
 - Regulatory approach as a fall-back
 - Options: MS4 permits; post construction general permit; adopt rules to implement federal rule if established

State Actions taken to address the Remaining Issues



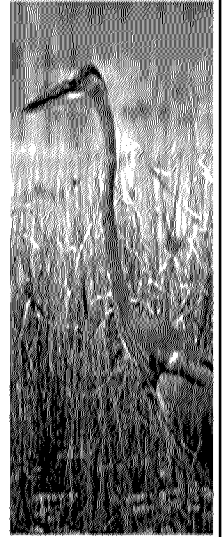
- Forestry



Actions following Notice of Intent to Disapprove

- NOAA/EPA will carefully consider comments received and additional information from the State
- Develop a “Response to Comments” document
- NOAA/EPA intend to make a final decision regarding the disapproval of OR program by 5/15/14

CZARA's "Penalty Provision"



- NOAA withholds portion of CZMA funding that supports implementation of the state's coastal management program
- EPA withholds a portion of Section 319 funding under the CWA that supports the implementation of the state's nonpoint source program
- Withheld funds could range from \$900,000 to \$1.2 million depending on appropriations level



CZARA – Path Forward

- Preventing/reducing NPS pollution is critical to all of us.
- Developing a fully approvable Coastal Nonpoint Program is complex and challenging
- We are committed to working together



CZARA – Comments on the Proposed Decision

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